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Attorneys for Plaintiff and Counterclaim-Defendant  
Monster, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

MONSTER, INC, a California corporation,

Plaintiff and Counterclaim-  
Defendant,

v.

DOLBY LABORATORIES LICENSING  
CORPORATION, a New York corporation,

Defendant and  
Counterclaimant.

Case No. 12-CV-2488 YGR

**STIPULATION AND [PROPOSED]  
ORDER OF DISMISSAL OF NO  
DILUTION CLAIMS WITHOUT  
PREJUDICE**

**Jury Trial Demanded**

Original Complaint Filed: Nov. 8, 2011

Plaintiff and Counterclaim-Defendant Monster, Inc. ("Monster") and Defendant and  
Counterclaimant Dolby Laboratories Licensing Corporation ("Dolby"), by and through their  
counsel of record, hereby submit this stipulation and proposed order dismissing without prejudice

1 Monster's claims for declaratory judgment of no dilution of Dolby's trademarks pursuant to Rule  
2 41(a), Fed. R. Civ. P.

3 WHEREAS, Dolby filed an action before the Trademark Trial and Appeal Board  
4 ("TTAB") on or about February 16, 2011, opposing registration of Monster's stylized M  
5 Headphone Mark, U.S. Trademark Application Serial No. 77/904698 (the "M Headphone Mark")  
6 and alleging that the Monster M Headphone Mark infringes and dilutes Dolby's registered design  
7 mark, U.S. Reg. No. 2,649,051 (the "Dolby DD Headphone Mark") (the "TTAB Action");

8 WHEREAS, the TTAB Action has been suspended pending the outcome of the above-  
9 captioned action;

10 WHEREAS, Monster filed its Amended Complaint for Declaratory Relief (D.N. 42) in the  
11 above-captioned action on or about September 4, 2012, seeking, *inter alia*, declaratory judgments  
12 that its use of the M Headphone Mark does not infringe or dilute any trademark rights of Dolby  
13 under federal or state law;

14 WHEREAS, in its Counterclaims in this action, Dolby has not asserted or pursued any  
15 claims for trademark dilution;

16 WHEREAS, through their counsel of record, the parties have met and conferred and  
17 Dolby has confirmed to Monster that Dolby will not pursue claims for trademark dilution in  
18 connection with this action or the pending TTAB Action, under federal or state law;

19 THEREFORE, IT IS STIPULATED AND AGREED THAT:

20 1. Monster hereby withdraws without prejudice its claims for declarations of no  
21 dilution under federal and state law;

22 2. So long as Monster does not assert any claim of non-dilution, Dolby will not claim  
23 or argue in this action that Monster's M Headphone Mark dilutes any trademark rights of Dolby;

24 3. In the TTAB Action, Dolby will not request a finding that Monster's M  
25 Headphone Mark dilutes any trademark rights of Dolby, and will take any steps necessary to  
26 withdraw and/or have dismissed any claims for or allegations of dilution in that proceeding;

27 4. Monster's Third and Fourth Counts of its Amended Complaint, seeking  
28 declaratory judgments of no trademark dilution under federal and state law, respectively, are

1 hereby dismissed without prejudice.

2 **PURSUANT TO THE PARTIES' AGREEMENT, IT IS SO STIPULATED:**

3 Dated: September 12, 2012

KASOWITZ, BENSON, TORRES &  
FRIEDMAN LLP

5 By: /s/ Gabriel S. Gross

6 Douglas E. Lumish  
7 Gabriel S. Gross  
8 Michelle L. Landry  
9 Robert P. Watkins, III (*pro hac vice*)

Attorneys for Plaintiff and Counterclaim-  
Defendant Monster, Inc.

10 O'MELVENY & MYERS LLP

11 By: /s/ Carlos M. Lazatin

12 George A. Riley  
13 Carlos M. Lazatin

14 Attorneys for Defendant and Counterclaim-  
15 Plaintiff Dolby Laboratories Licensing  
Corp.

16 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

17  
18 Dated: September \_\_, 2012

19 Honorable Yvonne Gonzalez Rogers  
20 United States District Court Judge

21  
22  
23  
24  
25 I hereby attest pursuant to Civil Local Rule 5-1 that concurrence in the electronic filing of  
26 this document has been obtained from the other signatories.

27 /s/ Gabriel S. Gross

28 Gabriel S. Gross